

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ELLA JANE McCRAY,

Plaintiff,

v.

**CITY OF EUFAULA, ALABAMA,
STEVE HANNERS, and DAVID
DUBOSE,**

Defendants.

Case Number 2:06-cv-309-MHT

OBJECTION AND MOTION TO STRIKE

Defendants the City of Eufaula, Alabama, Steve Hanners, and David Dubose object to the Plaintiff's Second Amended Complaint and move to strike it. In support of this motion, the defendants say as follows.

1. Federal Rule of Civil Procedure 15 states:

A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. ***Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party;*** and leave shall be freely given when justice so requires.

Fed. R. Civ. P. 15(a) (emphasis added).

2. The plaintiff has already amended her complaint once. She filed the Second Amended Complaint without leave of court. As such, it is improper and should be struck.

WHEREFORE, the defendants object to the Second Amended Complaint and move to strike it.

/s/ James H. Pike

James H. Pike (PIK003)
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and the City of Eufaula, Alabama

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CERTIFICATE OF SERVICE

I, James H. Pike, certify that on June 9, 2006, I electronically served a copy of this document upon:

Benjamin E. Meredith
707 West Main Street
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/s/ James H. Pike

James H. Pike